No. 09-1418

IN THE

Supreme Court of the United States

THE PRESBYTERIAN CHURCH OF SUDAN, REV. MATTHEW MATHIANG DEANG, REV. JAMES KOUNG NINREW, NUER COMMUNITY DEVELOPMENT SERVICES IN U.S.A., FATUMA NYAWANG GARBANG, NYOT TOT RIETH, individually and on behalf of the Estate of her husband JOSEPH THIET MAKUAC, STEPHEN HOTH, STEPHEN KUINA, CHIEF TUNGUAR KEIGWONG RAT, LUKA AYOUL YOL, THOMAS MALUAL KAP, PUOK BOL MUT, CHIEF PATAI TUT, CHIEF PETER KING PATAI, CHIEF GATLUAK CHIEK JANG,

Petitioners,

v.

TALISMAN ENERGY INC.,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF OF *AMICUS CURIAE* PROFESSOR JAMES CRAWFORD IN SUPPORT OF CONDITIONAL CROSS-PETITIONER

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June 23, 2010

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D. C. 20002

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
INTEREST OF *AMICUS CURIAE*	1
SUMMARY OF ARGUMENT	1
ARGUMENT	3
I THERE IS NO INTERNATIONAL LAW NORM THAT EXTENDS TO CORPORATIONS LIABILITY FOR TORTS COM-MITTED IN VIOLATION OF CUSTOMARY INTERNATIONAL LAW	3
A. Customary International Law Does Not Recognize Corporate Liability	4
1. Insofar as International Law has Recognized Direct Criminal Responsibility, It has Done so Only With Respect to Individuals, Not Corporations	4
2. None of the Constituent Instruments of the Five International Criminal Tribunals Created to Date Provided, or Provide, for Corporate Criminal Responsibility	9
3. The Development of General International Responsibility has been Almost Exclusively With Respect to States, State Entities, and Public International Organizations, and Not With Respect to Corporations	10

TABLE OF CONTENTS—Continued

Page

4. The Report of the International Commission of Jurists' Expert Legal Panel on Corporate Complicity in International Crimes Confirms That No Rule on Corporate Liability has yet Crystallized in International Law 12

B. Even If Corporate Liability were Recognized Under Customary International Law, It Is Not "accepted by the civilized world and defined with specificity comparable to the features of the 18th century paradigms," as required by Sosa 15

II. THE U.S. DISTRICT COURT'S ASSERTION OF JURISDICTION IN THIS CASE INVOLVING CLAIMS BY SUDANESE PLAINTIFFS AGAINST A CANADIAN CORPORATION BASED ON EVENTS THAT OCCURRED IN SUDAN IS CONTRARY TO INTERNATIONAL LAW 17

CONCLUSION 20

APPENDIX: [Insert Appendix Description] 1a

TABLE OF AUTHORITIES

CASES — Page

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Serb. & Mont.), 2007 I.C.J. No. 91, (Feb. 26) 5

Arrest Warrant of April 11, 2000 (Congo v. Belg.), 2002 I.C.J. 3 (Feb. 11) 19

Barcelona Traction, Light and Power Company, Ltd. (Belg. v. Spain), 1970 I.C.J. 3 (Feb. 5) 7

Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, 1999 I.C.J. 52 11

North Sea Continental Shelf (F.R.G. v. Den.; F.R.G. v. Neth.), 1969 I.C.J. 3 (Feb. 20) 15

Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. U.S.A.), 1998 I.C.J. 115 18-19

Sosa v. Alvarez-Machain, 542 U.S. 692 (2004) 1, 3, 15, 16, 17

Sunday Times v. United Kingdom (series A No. 30), European Court of Human Rights, 2 EHRR 245 (Apr. 26, 1979) 8

United States v. Yunis, 924 F.2d 1086 (D.C. Cir. 1991) 18

TABLE OF AUTHORITIES—Continued

	Page
MISCELLANEOUS	
Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis, and Establishing the Charter of the International Military Tribunal, 82 U.N.T.S. 279 (1945)	9
W. Blackstone, 4 *Commentaries* 68	3
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 U.N.T.S. 85 (1984)	7
Convention on the Prevention and Punishment of the Crime of Genocide, 78 U.N.T.S. 277 (1948)	5
Convention to Suppress the Slave Trade and Slavery of 1926, 60 L.N.T.S. 253 (1926)	7
European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 34, 213 U.N.T.S. 222 (1950)	8
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 75 U.N.T.S. 31 (1950)	6
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 75 U.N.T.S. 85 (1950)	6
Geneva Convention on the High Seas, 450 U.N.T.S. 82 (1958)	16
Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 75 U.N.T.S. 287 (1950)	6

TABLE OF AUTHORITIES—Continued

	Page
Geneva Convention Relative to the Treatment of Prisoners of War, 75 U.N.T.S. 135 (1950)	6
ILC Commentary to Chapter 2, Part III, *reprinted in* J. Crawford, *The International Law Commission's Articles on State Responsibility*	5
International Commission of Jurists, 2 Report of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes (2008)	13, 14
Lotus Case, Permanent Court of International Justice, Series A, No 10 (1927)	15
OAS Convention to Prevent and Punish the Act of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, 10 I.L.M. 255 (1971)	16
Oppenheim's International Law (9th ed. 1992)	16
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 1125 U.N.T.S. 609 (1978)	6
Republic of Bolivia v. Indemnity Mutual Marine Assurance Co., [1909] 1 KB 785	15
BVA Roling & A. Cassese, *The Tokyo Trial and Beyond* (Cambridge, Polity Press, 1993)	9

TABLE OF AUTHORITIES--Continued

Page

Rome Statute of the International Criminal Court, UN Doc A/CONF 183/9, 2187 U.N.T.S. 90 (1998) 10

John Ruggie, Report of the Special Representative of the Secretary-General on the Issues of Human Rights and Transnational Corporations and Other Business Enterprises, U.N. Doc. A/HRC/4/035, ¶ 44 (Feb. 9, 2007) 8

W. Shabbas, *Genocide in International Law* (Cambridge, CUP, 2000) 6

Statute of the International Criminal Tribunal for Rwanda, 33 I.L.M. 1598 (1994) 9

Statute of the International Criminal Tribunal for the Former Yugoslavia, 32 I.L.M. 1203 (1993) 9

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 266 U.N.T.S. 3 (1956) 7

Triffterer, *Commentary on the Rome Statute of the International Criminal Court* (Baden-Baden, Nomos Verlag, 1999) 10

United Nations Convention on the Law of the Sea, 1833 U.N.T.S. 3 (1982) 16

United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 13 I.L.M. (1974) 16

United Nations Security Council Resolution 1315 (Aug. 14, 2000) 9

TABLE OF AUTHORITIES—Continued

Page

Westland Helicopters Ltd. v. Arab Organisation for Industrialisation, [1995] 2 All ER 387 11

INTEREST OF *AMICUS CURIAE*

This Brief *Amicus Curiae* is respectfully submitted pursuant to Rule 37 of the Supreme Court Rules in support of Defendant-Conditional Cross-Petitioner, Talisman Energy Inc. ("Talisman Energy").[1] *Amicus* is Whewell Professor of International Law at the University of Cambridge and was the fifth and final Special Rapporteur for the International Law Commission's ("ILC") Articles on the Responsibility of States for Internationally Wrongful Acts.[2] *Amicus* was retained by Talisman Energy in 2004 to give expert evidence at first instance and on appeal. *Amicus* believes this submission will assist the Court regarding the existence and content of customary international law rules as they bear on issues raised in this appeal.

SUMMARY OF ARGUMENT

International law as yet contains no norm of corporate responsibility, civil or criminal, "accepted by the civilized world and defined with specificity comparable to the features of the 18th century paradigms [this Court has] recognized,"[3] that extends liability for torts committed in violation of customary international law to corporations.

Customary international law, as it stands today, does not include a corporate responsibility regime. The

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[1] No counsel for any party authored this brief either in whole or in part. Both parties have consented in writing to the filing of this brief and their consents have been filed with the Clerk. Respondent-Conditional Cross Petitioner Talisman Energy Inc. has compensated me for my time spent preparing this submission.

[2] *See Curriculum Vitae* in Appendix.

[3] *Sosa v. Alvarez-Machain*, 542 U.S. 692, 725 (2004).

development of international criminal law has been limited to certain categories of wrongful conduct – namely, genocide, crimes against humanity, war crimes, torture, and enslavement. Each international crime is a crime attributable only to natural persons. The international criminal tribunals established since World War II likewise prosecuted (and prosecute) only individuals. The closest analogy in international law to civil responsibility under national law is the regime of international responsibility of States, certain State-like entities and public international organizations. Corporations (except where otherwise provided by treaty) remain creatures of national legal systems. There is so far no basis in general international law for attributing international legal responsibility to a corporation.

To summarize, at present there is no international law norm "accepted by the civilized world and defined with specificity comparable to the features of the 18th century paradigms [this Court has] recognized," extending liability for torts committed in violation of customary international law to corporations. This standard requires universal acceptance and thus imposes a higher threshold to be met than the one of general acceptance required for the formation of customary international norms.

Finally, the assertion of jurisdiction against a Canadian corporation based on events that occurred in Sudan would constitute an exercise of universal jurisdiction that has no basis under international law.

ARGUMENT

I. THERE IS NO INTERNATIONAL LAW NORM THAT EXTENDS TO CORPORATIONS LIABILITY FOR TORTS COMMITTED IN VIOLATION OF CUSTOMARY INTERNATIONAL LAW.

As this Court said in *Sosa*, only certain violations of international law are covered by the Alien Tort Statute ("ATS"): those "accepted by the civilized world and defined with specificity comparable to the features of the 18th century paradigms."[4] These were the three offences referred to by Blackstone: "violation of safe conducts, infringement of the rights of ambassadors, and piracy."[5] The ATS does not make wrongful as a matter of U.S. federal law just any violation of international law, but covers only "a very limited category defined by the law of nations and recognized at common law."[6] There is a dual test: the rules for which an ATS claim lies must be rules "binding individuals for the benefit of other individuals," while at the same time established by "the norms of state relationships" such as, or analogous to "violation of safe conducts, infringement of the rights of ambassadors, and piracy" in the late 18th century.[7] Thus the only ATS claims cognizable now are those "based on the present-day law of nations" and even more narrowly those accepted with the specificity of the 18th century paradigms.[8]

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[4] *Sosa*, 542 U.S. at 724-5.

[5] W. Blackstone, 4 *Commentaries* 68.

[6] *Sosa*, 542 U.S. at 712.

[7] *Id.* at 716.

[8] *Id.* at 725.

In principle international law operates only horizontally, *i.e.*, between entities recognised as having international legal personality such as States and international organizations. The effect of international law as binding upon individuals is an exception that has to be formulated explicitly, as is done in the instruments imposing international criminal responsibility on natural persons. As it stands, international law does not purport to regulate corporations directly but allows or sometimes obliges States to do so and, in the course of doing so, to criminalize certain corporate behaviours.

A. Customary International Law Does Not Recognize Corporate Liability.

1. Insofar as International Law has Recognized Direct Criminal Responsibility, It has Done so Only With Respect to Individuals, Not Corporations.

There is no general regime for corporate criminal responsibility under international criminal law. Substantive criminal law treaties and treaties establishing international criminal courts and tribunals have focused exclusively on individual criminal responsibility. Genocide, war crimes, torture, and enslavement are acts recognized as crimes in international law. But in general, treaties defining international crimes envisage that only individuals may be prosecuted for them. The treaties make no attempt to solve the range of legal issues that arise regarding attributing specific intent to corporations, let alone questions of the applicable sanctions or

penalties for corporations.[9] As to the four main categories of international crimes, the position is that criminal responsibility is attributed to individuals, not corporations. In particular: Article IV of the Convention on the Prevention and Punishment of the Crime of Genocide provides:

> Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.[10]

The acts enumerated in Article III of the Convention include conspiracy, incitement and complicity. The Convention speaks consistently of "persons": "persons guilty of genocide or any of the other acts enumerated in article III" (Article V); "persons charged with genocide or any of the other acts enumerated in article III" (Article VI). The reference to "persons" here is to individuals, *i.e.* natural persons. Only they can have the specific intent required for genocide. In

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[9] The former Article 19 of the ILC's Draft Articles on State Responsibility (1996) sought to introduce the concept of "international crimes of States." It was deleted from the final text of the Articles. *See* ILC Commentary to Chapter 2, Part III, paras. 6-7, *reprinted in* J. Crawford, *The International Law Commission's Articles on State Responsibility* 243-45. The ILC's final decision in this regard was specifically approved by the International Court of Justice in the *Bosnia* case: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Serb. & Mont.)*, 2007 I.C.J. No. 91, ¶¶ 167, 170 (Feb. 26).

[10] Convention on the Prevention and Punishment of the Crime of Genocide, adopted Dec. 9, 1948, entered into force Jan. 1951, Art. 4, 78 U.N.T.S. 277.

fact only individuals have ever been prosecuted for genocide.[11]

With respect to war crimes, the 1949 Geneva Conventions[12] provide for effective penal sanctions "for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined" by the relevant articles.[13] In this context, criminal responsibility for grave breaches is evidently a matter of individual, not corporate, responsibility under the Conventions. The position with respect to internal armed conflict under the Second Protocol of 1977 equally contemplates only the penal responsibility of individuals.[14]

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[11] The leading commentator on the Convention confirms that it does not envisage "civil genocide". *See* W. Shabbas, *Genocide in International Law*, 444 (Cambridge, CUP, 2000).

[12] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, signed 12 August 1949, entered into force 21 October 1950, 75 U.N.T.S. 31 (1950); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, signed 12 August 1949, entered into force 21 October 1950, 75 U.N.T.S. 85 (1950); Geneva Convention Relative to the Treatment of Prisoners of War, signed 12 August 1949, entered into force 21 October 1950, 75 U.N.T.S. 135 (1950); Geneva Convention Relative to the Protection of Civilian Persons in Time of War, signed 12 August 1949, entered into force 21 October 1950, 75 U.N.T.S. 287 (1950).

[13] *See, e.g.*, Geneva Convention I, 75 U.N.T.S. 31, Art. 49.

[14] *See* Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, adopted 8 June 1977, entered into force 7 December 1978, 1125 UNTS 609, esp. Art. 6 (2) (b) ("no one shall be convicted of an offence except on the basis of individual penal responsibility"). Neither the Republic of the Sudan nor the United States of America is a party to Protocol II.

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment[15] provides for the crime of torture, defined in Article 1 as torture "inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." Each State is required to "ensure that all acts of torture are offences under its criminal law," including "an attempt to commit torture and . . . an act by any person which constitutes complicity or participation in torture" (Article 4).

Finally, reference should be made to the Convention to Suppress the Slave Trade and Slavery of 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956.[16] These conventions establish the principle that no person may be held as a slave, *i.e.*, as property, and this principle is of general application.[17] The Slavery Conventions do not create any regime of corporate responsibility for slavery under international law: rather they impose an obligation on States parties to impose severe penalties for slave trading and related infractions (1956 Convention, Art. 6).

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and most of its provisions remain binding as treaty law only and have not reached the status of customary international law.

[15] Adopted 10 December 1984, entered into force 26 June 1987, 1465 U.N.T.S. 85.

[16] Convention to Suppress the Slave Trade and Slavery of 1926, Sept. 25, 1926, 60 L.N.T.S. 253; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Sept. 7, 1956, 266 U.N.T.S. 3.

[17] *Barcelona Traction, Light and Power Company, Ltd. (Belg. v. Spain)*, 1970 I.C.J. 3, 32 (Feb. 5).

As a matter of existing international law, the human rights conventions including the Genocide Convention and the Geneva Conventions do not reach conduct by corporations either. It is clear from the language of human rights treaties that it is States, acting through their organs and their agents, which must "respect," "ensure" and "secure" the rights envisaged in the conventions. Where human rights treaties express goals of realization of human rights, these have been interpreted by human rights bodies as imposing obligations on States to regulate the activities of persons, including corporations, through domestic law.

True, it has been held that corporations may be beneficiaries of international human rights.[18] But currently *responsibility* under all the human rights treaties, universal and regional, is exclusively that of the State. Thus under current international human rights law there is no basis for holding corporations directly responsible.[19]

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[18] *See, e.g.*, European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 34, Nov. 4, 1950, 213 U.N.T.S. 222. The first case brought by a corporation pursuant to Article 34 was *Sunday Times v. United Kingdom* (series A No. 30), European Court of Human Rights, 2 EHRR 245 (Apr. 26, 1979).

[19] *See, e.g.*, John Ruggie, Report of the Special Representative of the Secretary-General on the Issues of Human Rights and Transnational Corporations and Other Business Enterprises, U.N. Doc. A/HRC/4/035, ¶ 44 (Feb. 9, 2007) ("In conclusion, it does not seem that the international human rights instruments discussed here currently impose direct liabilities on corporations.").

2. None of the Constituent Instruments of the Five International Criminal Tribunals Created to Date Provided, or Provide, for Corporate Criminal Responsibility.

There have been five international criminal tribunals: the two established at Nuremberg and Tokyo following World War II, the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, and the International Criminal Court.[20]

The Charter of the Nuremberg Tribunal provided for the trial of persons who "whether as individuals or as members of organizations" committed specified crimes.[21] In every instance, those standing as accused were individuals. Only individuals were prosecuted before the International Military Tribunal for the Far East.[22]

The Statute of the International Criminal Tribunal for the Former Yugoslavia provides for jurisdiction only over natural persons.[23] Likewise the Statute of the International Criminal Tribunal for Rwanda.[24]

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[20] This does not include the so-called "hybrid" tribunals such as that established by an Agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council Resolution 1315 (Aug. 14, 2000).

[21] The Agreement for the Prosecution and Punishment of Major War Criminals of the European Axis, and Establishing the Charter of the International Military Tribunal, Art. 6, 82 U.N.T.S. 279.

[22] *See* B.V.A. Roling & A. Cassese, *The Tokyo Trial and Beyond*, at 3 (Cambridge, Polity Press, 1993).

[23] Statute of the International Criminal Tribunal for the Former Yugoslavia, Arts. 2-6, May 25, 1993, 32 I.L.M. 1203.

[24] Statute of the International Criminal Tribunal for Rwanda, Arts. 2-5, Nov. 8, 1994, 33 I.L.M. 1598.

The Rome Statute of the International Criminal Court entered into force on July 1, 2002.[25] Consideration was given to developing principles of corporate criminal responsibility in the Rome Statute, but these attempts failed, due *inter alia* to divergences in national approaches.[26] The episode is significant, concerning as it does the central international criminal law instrument of our time. It demonstrates the absence of any accepted rules or standards for corporate criminal responsibility under international law.

3. The Development of General International Responsibility has been Almost Exclusively With Respect to States, State Entities, and Public International Organizations, and Not With Respect to Corporations.

I turn to questions of general international responsibility, which may be analogized to civil responsibility under national legal systems for delicts, breaches of contract, etc. Here the focus of international law has been almost exclusively on States, State entities, and public international organizations. Nor is there any evidence supporting a general international law of corporate complicity for involvement in breaches of international law by States or international organizations.

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[25] Adopted July 17, 1998, UN Doc A/CONF.183/9 (1998), 2187 U.N.T.S. 90.

[26] *See, e.g.*, Ambos, in Triffterer, *Commentary on the Rome Statute of the International Criminal Court*, at 478 (Baden-Baden, Nomos Verlag, 1999).

In international law, there is a correlation between international legal personality and international responsibility. The State itself is directly responsible under international law for internationally wrongful acts attributable to it, as are other international legal persons such as public international organizations.[27] But while international law confers rights on individuals and corporations or other entities (*i.e.*, persons not considered distinct international legal persons with an independent capacity to act on the international plane), the only significant attempts so far to impose direct responsibility or liability on such persons or entities have been in the field of international criminal law and there, exclusively with respect to natural persons.

No doubt States may agree to treat a corporate entity—such as, for example, the Arab Organization for Industrialization—as an international legal person, at least for certain purposes.[28] But general international law does not recognize the international legal personality of "transnational" or "multinational" corporations. Corporations remain entities, or groups of entities, created by the national law(s) of their place(s) of incorporation.

There have been tentative developments in the direction of asserting international responsibility, *e.g.* of armed insurgents and opposition groups. It may be that this will be extended in future to cover corporations and other non-State entities; but at

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[27] *Cf. Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, 1999 I.C.J. 62, at ¶ 66.

[28] *See Westland Helicopters Ltd. v. Arab Organisation for Industrialisation*, [1995] 2 All E.R. 387.

present discussion of such questions is embryonic and tends to use looser terms such as "accountability" or "social responsibility." International law creates direct responsibility for specific acts defined as international crimes, but beyond that it does not have its own system of responsibility for breaches of international law on the part of persons generally, still less its own special system of corporate responsibility.[22]

4. The Report of the International Commission of Jurists' Expert Legal Panel on Corporate Complicity in International Crimes Confirms That No Rule on Corporate Liability has yet Crystallized in International Law

In its 2008 Report on Corporate Complicity and Legal Accountability, the International Commission of Jurists (the "ICJ"), based on a three-year study, analyses the issues of corporate liability in national laws and in international criminal law. The three volumes notably say nothing about corporate liability under international criminal law or general international law. Moreover, the only possible consequence from companies' alleged participation in gross human rights abuses that the ICJ draws in its conclusions is the so called "zone of legal risk." That zone certainly exists under the various national laws, but nothing is said as to corporate criminal responsibility or civil

[22] International treaties increasingly provide forums for private persons and corporations to seek to vindicate rights at the international level, *e.g.* the various human rights courts, and arbitration tribunals concerned with the protection of investment. But invariably it is the State or a State entity that is the respondent, and these mechanisms do not allow for the respondent State to bring counterclaims for breaches of international law against the private party.

liability in international law. The ICJ avoided analysing the core issue of whether companies are subjects or addressees of international law at all.

The Criminal Law and International Crimes Report begins by acknowledging that "no international forum yet has jurisdiction to prosecute a company as a legal entity."[30] Indeed, all the examples given by the ICJ Panel for holding corporations criminally responsible relate to business officials as opposed to corporations and all are drawn from a purely domestic legal context.[31] The study also observes that "not all jurisdictions hold businesses responsible under their national criminal laws."[32] This conclusion, being based on the study of numerous national legal systems, serves to refute the argument that corporations may be held responsible pursuant to the general principles of law recognized by civilized nations.

Finally, the Panel itself concludes that "significant opposition to the imposition of criminal sanctions on companies as legal entities remains."[33] While the

[30] International Commission of Jurists, 2 Report of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, at 6 (2008).

[31] *Id.* at 60, nn 189, 190 (citing two acquittal judgements of the Italian Court of Appeals and The Hague Court of Appeals, respectively, in cases against individuals for alleged breaches of United Nations embargoes: Judgement in the *Case against Leonid Efimovich Minin* and Judgement in the *Case against Guus Kouwenhoven*, Hague Court of Appeal, 10 March 2008, LJN BC 7373).

[32] *Id.* at 57.

[33] *Id.*

Report advocates the imposition of international criminal liability on companies in the future as a desirable development of the law, it nowhere claims that such corporate criminal liability already exists in international law.

The ICJ Report on Civil Remedies does not even attempt to identify an international law regime of civil liability for corporations. Instead, "the Panel explores the potential application of the law of civil remedies to some of the types of business interaction and interplay which can give rise to allegations of complicity"[34] by comparing the differences between civil and common law national regimes in that respect. The complete absence of any international law analysis of corporate civil liability clearly indicates that after its three-year study, the Panel itself could not identify any such concept in international law.[35]

In conclusion, the Report states that "[t]he Panel believes it to be of great importance that, in the context of *law-making* and *policy-setting*, steps continue to be taken to tackle, in appropriate ways, the obstacles to civil liability which can arise, and to ensure the continuing development of civil liability."[36]

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[34] International Commission of Jurists, 3 Report of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, at 28 (2008).

[35] *Id.* at 3-6.

[36] *Id.* at 6 (emphasis added).

B. Even If Corporate Liability were Recognized Under Customary International Law, It Is Not "accepted by the civilized world and defined with specificity comparable to the features of the 18th century paradigms," as required by *Sosa*.

The ATS in terms refers to "violations of the law of nations", on its face it does not apply a domestic United States standard but an international law one. The concept of the "law of nations" was addressed by the Permanent Court of International Justice in 1927 in the *Lotus Case*, where Judge Moore observed that piracy as an international crime *jure gentium* (against the law of nations) is to be distinguished from piracy under the different municipal laws "which are not of *universal cognizance*, so as to be punishable by all nations."[37] The present day standard for the formation of customary international law, affirmed by the International Court of Justice, is one of "*general recognition* that a rule of law or legal obligation is involved."[38] In the ATS context, the search is for a norm meeting an even higher threshold of being "specific, universal and obligatory" and which does not have "less definitive content and acceptance among civilized nations than the historical paradigms familiar when §1350 was enacted."[39] The petitioner has to demonstrate the existence of a norm meeting this higher standard. Many rules of customary international law do not reach this level of specificity

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[37] Judge Moore, *Lotus Case* (1927), PCIJ, Series A, No 10, at 70 (emphasis added); *see* also *The Republic of Bolivia v The Indemnity Mutual Marine Assurance Co*, [1909] 1 KB 785.

[38] *North Sea Continental Shelf (F R G v Den ; F R G v Neth)*, 1969 I C J 3, 43 (Feb 20) (emphasis added)

[39] *Sosa*, 542 U S at 732

and universal acceptance. This is true, *a fortiori*, as concerns corporate responsibility under present international law.

The definition of piracy *jure gentium* nowadays has been confirmed and repeated in the Geneva Convention on the High Seas of 1958[40] and in the United Nations Convention on the Law of the Sea of 1982,[41] which now has 160 States parties. This definition must thus be regarded as having great authority.[42] The same can be observed with respect to the protection of the rights of diplomatic agents, including ambassadors, endorsed in general and regional multilateral treaties with even broader participation.[43] No comparable endorsement in a binding international treaty exists imposing direct corporate liability: either criminal or civil.

According to *Sosa*, the ATS does not create new causes of action. For an ATS action to lie requires the court to determine that "*international law* extends the scope of liability for a violation of a given norm to the perpetrator being sued, if the defendant is a

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[40] Geneva Convention on the High Seas, Art. 15, Apr. 29, 1958, 450 U.N.T.S. 82, Article 15.

[41] United Nations Convention on the Law of the Sea, Art. 101, Dec. 10, 1982, 1833 U.N.T.S. 3.

[42] *1 Oppenheim's International Law*, at 747 (9th ed. 1992).

[43] *See, e.g.*, United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, *entered into force* Feb. 20, 1977, 13 I.L.M. (1974); OAS Convention to Prevent and Punish the Act of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, *signed* Feb. 2, 1971, 10 I.L.M. 255 (1971).

private actor such as corporation or individual."[44] The federal courts do not have power "to mold substantive law,"[45] rather they take cognizance that under *existing* international law *this* defendant is liable for breach of an international law norm to *this* plaintiff in respect of the conduct alleged.

Moreover the recognition that such a norm exists creating a private right of action should be undertaken "with great caution."[46]

II. THE US DISTRICT COURT'S ASSERTION OF JURISDICTION IN THIS CASE INVOLVING CLAIMS BY SUDANESE PLAINTIFFS AGAINST A CANADIAN CORPORATION BASED ON EVENTS THAT OCCURRED IN SUDAN IS CONTRARY TO INTERNATIONAL LAW.

As Professor Shaw notes in his Amicus Curiae brief submitted in support of Conditional Cross-Petitioner, the issues of extraterritoriality and universal jurisdiction were raised by Justice Breyer in *Sosa*,[47] questioning whether the exercise of jurisdiction under the ATS was "consistent with those notions of comity that lead each nation to respect the sovereign rights of other nations by limiting the reach of its laws and their enforcement" in a situation like the present

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[44] 542 U.S. at 732 n. 20 (emphasis added). *See also id.* at 760 (Breyer, J. concurring) ("to qualify for recognition under the ATS a norm of international law ...must extend liability to the type of perpetrator (e.g., a private actor) the plaintiff seeks to sue")

[45] *Id.* at 713

[46] *Id.* at 728

[47] *Id.* at 761-2 Breyer, J., concurring

one, when "foreign persons injured abroad bring suit in the United States under the ATS, asking the courts to recognize a claim that a certain kind of foreign conduct violates an international norm." The conclusions of Professor Shaw are endorsed.

Petitioners say that the District Court had jurisdiction, *inter alia*, on the basis of principles of universal jurisdiction. This is highly questionable.

Universal jurisdiction "remains a matter of controversy within the international legal community,"[48] which casts doubt on petitioners' implied assertion that, with respect to the conduct in issue in the present case, it has achieved the degree of acceptance indicative of a customary international law rule. It has long been established that all States may exercise jurisdiction over piracy on the high seas, but that answers a different question—namely, how to deal with acts committed outside any territorial jurisdiction whatsoever.

Certain acts, in addition to piracy, are said to belong to a category of "crimes of universal jurisdiction." But this is a very limited category. It does not include the indirect involvement (conspiracy, etc.) that petitioners say Talisman Energy had in alleged offences in the Sudan.[49] Even where jurisdiction has

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[48] *Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v U.S.A.)*, 1998 I.C.J. 115, at 149 (dissenting opinion of Judge Oda) ¶ 8.

[49] For a list of several possible universal crimes, *see United States v. Yunis*, 924 F.2d 1086, 1091 (D.C. Cir. 1991) (Mikva, C.J.). *See also* the shorter list in *Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention Arising From the Aerial Incident at Lockerbie (Libyan Arab*

been exercised under the title "universal jurisdiction," it has not been without limits. In particular, such jurisdiction does not apply to a foreign defendant *in absentia*.[80] Universal jurisdiction, so called, has been accepted where the defendant had "established his centre of interests" in the national territory.[81] I understand that Talisman Energy cannot be said to have "established [its] centre of interests" in New York. As a matter of international law, the assertion of jurisdiction by a U.S. court over a Canadian company for conduct allegedly carried out in the Sudan by a foreign subsidiary is not supported by the mere presence in the United States of a different subsidiary of Talisman Energy having no link to Sudan.

Jamahiriya v. USA), 1998 I.C.J. 115, at 178, 179 (dissenting opinion of Judge Oda) ¶¶ 17, 20.

[80] *Arrest Warrant of April 11, 2000 (Congo v. Belg.)*, 2002 I.C.J. 3, 39-40, 42 (Feb. 11) (Separate Opinion of President Guillaume) ¶¶ 9, 12. In the *Arrest Warrant Case*, though on other grounds, a Belgian arrest warrant for a Congolese cabinet minister, issued on a theory of universal jurisdiction, was rejected. *Id.* at 29-30, ¶¶ 70-71.

[81] *Id.* at 41, ¶ 12.

CONCLUSION

For these reasons, international law currently furnishes no rule "accepted by the civilized world and defined with specificity comparable to the features of the 18th century paradigms" for corporate responsibility, either civil or criminal. Thus the petitioners fail to establish jurisdiction under the *Sosa* ruling of this Court.

Respectfully submitted,

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June 23, 2010

APPENDIX

CURRICULUM VITAE

CRAWFORD, James Richard

Born, Adelaide, 14 November 1948

TERTIARY EDUCATION & DEGREES

Adelaide University, 1966-1971, BA (English & History-Politics), 1971; LLB (first class honours), 1971, Stow Scholar, Australian Shell Scholar, 1971

DPhil (Oxon, 1977)

LLD (Cantab, 2004)

Juris Doctor honoris causa (Pázmány Péter Catholic University of Budapest, 2005; University of Paris-I Sorbonne, 2007)

HONOURS

PJN (Malaysia, 2007), Cavaler, Ordinul Național Servicio Credincios (Romania, 2009)

PROFESSIONAL QUALIFICATIONS

Barrister and Solicitor of the High Court of Australia (1977)

Barrister of the Supreme Court of New South Wales (called 6/11/1987); Senior Counsel (appointed 7/11/97)

Barrister, Gray's Inn (called March 1999); Foundation Member of Matrix Chambers, Gray's Inn, London

EMPLOYMENT

1. University of Adelaide. Lecturer, August 1974-7; Senior Lecturer, 1977-82; Reader, 1982-3; Professor of Law (personal chair), 1983-6.

2. Australian Law Reform Commission. Commissioner (full-time) 1982-84.

3. University of Sydney. Challis Professor of International Law, 1986-92, Dean, Faculty of Law, 1990-92.

4. University of Cambridge. Whewell Professor of International Law; Professorial Fellow of Jesus College (1992-); Director, Lauterpacht Research Centre for International Law (1995-2003, 2006-2010); Chair, Faculty Board of Law (2003-6).

GOVERNMENTAL AND INTERGOVERNMENTAL BODIES

Australian Law Reform Commission. Commissioner 1982-90 (part-time 1984-90).

Australian National Commission for UNESCO. Member 1984-88.

Australia, Constitutional Commission. Member, Advisory Committee on the Australian Judicial System 1985-87.

Member, Admiralty Rules Committee (Australia) 1989-92.

Member, United Nations International Law Commission (1992-2001).

COMMITTEES, PROFESSIONAL ASSOCIATIONS

Australasian Universities Law Schools Association: President (1985).

British Academy, Fellow (elected 2000)

Hague Academy of International Law, Member of the Curatorium (elected 1999)

Institut de Droit International. Associate (elected 1986), Member (1991-)

International Law Association. Director of Studies (1991-7)

Maritime Law Association of Australia and New Zealand (Honorary Member)

LEGAL PROFESSIONAL PRACTICE

Engaged as counsel in the following cases:

Before the International Court of Justice:

1. *Certain Phosphate Lands in Nauru (Nauru v. Australia)* ICJ Rep 1992 p240 (counsel for Nauru) (settled in August 1993).

2. *Territorial Dispute (Libya v. Chad)* ICJ Rep 1994 p 6 (counsel for Libya).

3. *East Timor Dispute (Portugal v. Australia)* ICJ Rep 1995 p 90 (counsel for Australia).

4. *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)* (counsel for Iran) (withdrawn pending settlement negotiations; settled 1996: see ICJ Rep 1996 p 9)

5. *Request for an Investigation of the Situation (New Zealand v. France)* ICJ Rep 1995 p 288 (counsel for Pacific Island States seeking to intervene: Samoa, Solomon Islands, Federated States of Micronesia, Marshall Islands)

6. *Legality of the Use by a State of Nuclear Weapons in Armed Conflict (Advisory Opinion)*, ICJ Rep 1996 p 66 (counsel for Solomon Islands)

7. *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)*, ICJ Rep 1996 p 226 (counsel for Solomon Islands)

8. *Land and Maritime Dispute (Cameroon v. Nigeria)* ICJ Rep 1996 p 13 (Interim Measures); ICJ Rep 1998 p 275; ICJ Reports 2002 p 303 (counsel for Nigeria)

9. *Case concerning the Oil Platforms (Islamic Republic of Iran v. United States of America)* (senior counsel for Iran) ICJ Reports 1996 p 803.

10. *Gabčikovo Nagymaros Barrage System (Hungary v. Slovakia)* ICJ Rep 1997 p 7 (senior counsel for Hungary)

11. *Case concerning Sipidan and Ligitan (Malaysia v. Indonesia)* ICJ Rep 2002 p 625 (senior counsel for Malaysia)

12. *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)* (senior counsel for Croatia)

13. *Case concerning Certain Property (Liechtenstein v. Germany)* ICJ Reports 2006 p 6 (senior counsel for Liechtenstein)

14. *Case concerning Pulau Batu Puteh (Malaysia v. Singapore)*, judgment of 23 May 2008 (senior counsel for Malaysia)

15. *Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, ICJ Reports 2004 p. 136 (counsel for Palestine)

16. *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, ICJ Reports 2009, judgment of 3 February 2009 (senior counsel for Romania), http://www.icj-cij.org/docket/files/132/14987.pdf?PHPSESSID=be89ba8849b0e8268722ac705f5ece1e

17. *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, judgment of 13 July 2009 (senior counsel for Costa Rica), http://www.icj-cij.org/docket/files/133/15321.pdf?PHPSESSID=be89ba8849b0e8268722ac705f5ece1e

18. *Territorial and Maritime Dispute (Nicaragua v. Colombia) (Merits)* (senior counsel for Colombia)

19. *Aerial Herbicide Spraying (Ecuador v. Colombia)* (senior counsel for Colombia)

20. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)* (senior counsel for Georgia), Provisional measures application in International Court of Justice; senior counsel for Georgia. Case concerns ethnic cleansing in Georgia following Russian intervention of August 2008. Provisional measures granted. Order of 15 October 2008: http://www.icj-cij.org/docket/files/140/14801.pdf?PHPSESSID=a3d6a81cea830cc9fa986d357a86cd52

21. *Maritime Dispute (Peru v. Chile)* (senior counsel for Chile)

22. *Kosovo Advisory Opinion* (senior counsel for United Kingdom)

23. *Macedonia v. Greece* (senior counsel for Greece)

24. *Case concerning Japan's Whaling in the Southern Ocean (Australia v. Japan)*, (Counsel for Australia)

Before other international tribunals

1. *Islamic Republic of Iran v. United States of America, Cases Nos. A15(IV) and A24* Award No. 590-A15(IV)/A24-FT, 28 December 1998) 34 Iran-US CTR 105 (Iran-United States Claims Tribunal, Full Tribunal) (counsel for Iran)

2. *Prosecutor v. Blaškić (Objection to the Issue of Subpoenae duces tecum)* (International Criminal Tribunal for the Former Yugoslavia, Trial Chamber II) (1997) 110 ILR 606, on appeal, ibid. 668) (counsel for the Prosecutor).

3. *Tradex Hellas SA v. Albania* (1996, 1999) 5 ICSID Reports 43 (ICSID Tribunal) (senior counsel for Albania)

4. *Case concerning Southern Blue-fin Tuna (Australia & New Zealand v. Japan)* Order for interim measures of protection, International Tribunal for the Law of the Sea, 26 August 1999 38 ILM 1624 (1999), 117 ILR 148, Annex VII arbitration, Washington, May 2000, 119 ILR 508 (senior counsel for Australia).

5. *Islamic Republic of Iran v. United States of America, Case No. A30* (Iran-United States Claims Tribunal, Full Tribunal, pending) (counsel for Iran)

6. *Eritrea/Ethiopia Boundary Commission* (Boundary Commission under the auspices of the Permanent Court of Arbitration) 41 ILM 1057 (counsel for Eritrea)

7. *Eritrea/Ethiopia Compensation Commission* (Commission under the auspices of the Permanent Court of Arbitration) 42 ILM 1027, 1056, 45 ILM 621 (counsel for Eritrea)

8. *The Volga (Russia v. Australia) (Prompt Release)* (International Tribunal for the Law of the Sea), 42 ILM 159

9. *Case Concerning Land Reclamation by Singapore in and around the Straits of Johor (Request for Provisional Measures)* 126 ILR 487 (International Tribunal for the Law of the Sea, 2003) (senior counsel for Malaysia)

10. *Barbados v. Trinidad and Tobago* (Annex VII Tribunal under the 1982 Convention) (2006) 45 ILM 798 (senior counsel for Trinidad and Tobago)

11. *Baglihar Dam dispute (Pakistan v. India)* (proceedings before a Neutral Expert under the Indus Waters Agreement) (senior counsel for Pakistan)

12. *Abyei Dispute* (Government of Sudan/Sudan People's Liberation Movement, PCA, senior counsel for Republic of Sudan)

Plus counsel for applicant or respondent in numerous arbitrations (ICC, UNCITRAL, ICSID, NAFTA, etc.)

Experience as judge/arbitrator:

Judge, OECD Administrative Tribunal (1993, reappointed 1996, 1999, 2002)

Dat?ol Power Company v. State of Maharashtra (ad hoc arbitration under UNCITRAL Rules, 1995) (interim award on jurisdiction and arbitrability, 7 February 1996, subsequently settled by consent order) (President of the Tribunal)

Larsen v. Hawaiian Kingdom (presiding arbitrator; ad hoc arbitration under the auspices f the Permanent Court of Arbitration, award terminating arbitration, February 2001), 119 ILR 566

Newfoundland/Nova Scotia, Maritime Boundary Arbitration (member of Tribunal, appointed by the Government of Canada) first phase, Fredericton, Award of 17 May 2001, 128 ILR 453; second phase, Award of 26 March 2002 128 ILR 504

Companta de Aguas del Aconquija S.A. & Vivendi Universal v. Argentine Republic (ICSID Case No ARB/97/3), Decision of 3 July 2002, 41 ILM 1037, 125 ILR 43, 6 ICSID Reports 330, 340 (member of ad hoc Committee)

Mondev International Ltd v. United States of America (ICSID Case No ARB(AF)/99/2), Award of 11 October 2002, 42 ILM 85; 125 ILR 98, 6 ICSID Reports 192 (member of Tribunal)

Waste Management, Inc v. United Mexican States (ICSID Case No. ARB(AF)/00/3) (President), Decision on Preliminary Objection, 24 July 2002, 41 ILM 1315, 6 ICSID Reports 549, Award,

30 April 2004, 11 ICSID Reports 361 (President of Tribunal)

Yaung Chi Oo Trading Pte Ltd v Government of Myanmar (ASEAN Case No ARB 01/1, member of Tribunal), Final Award, 31 March 2003, 42 ILM 540 (member of Tribunal)

Case concerning the MOX Plant, Republic of Ireland v. United Kingdom (Arbitration under UNCLOS Annex VII) 42 ILM 1118, 126 ILR 310 (party-appointed arbitrator for Republic of Ireland)

SGS Société Générale de Surveillance SA v Republic of the Philippines (ICSID Case No ARB/02/6) decision on jurisdiction and admissibility, 29 January 2004, 8 ICSID Reports 515; 129 ILR 444 (member of Tribunal)

JacobsGibb Limited v The Hashemite Kingdom of Jordan (ICSID Case No ARB/02/12) (party-appointed arbitrator, settled)

EnCana Corporation v Government of the Republic of Ecuador (2006) 12 ICSID Reports 400 (President of the Tribunal)

ZG Specialty Insurance Co v. Sovereign Risk Insurance Ltd (AAA Arbitration) (member of the Tribunal, settled)

Republic of Armenia v. Helennic Telecommunications Organization SA (ICC Arbitration 10905/ ACS/FM) (member of the Tribunal, settled)

Channel Tunnel Group Ltd & Another v. Secretary of State for Transport & Another (President of the Tribunal), Partial Award of 30 January 2007, 132 ILR 1

Tembec Inc. v. United States of America (NAFTA Chapter 11 Arbitration) (member of Tribunal, consolidated)

MTD Equity Sdn Bhd v. Republic of Chile (ICSID Case ARB/01/07) (member of annulment Committee) (decision of 21 March 2007)

CMS Gas Transmission Co v. Argentine Republic (ICSID Case ARB/01/08) (member of annulment Committee) (decision of 25 September 2007)

Asian Village Antigua Limited v. Government of Antigua and Barbuda (UNCITRAL Arbitration under the auspices of the LCIA) (Sole arbitrator), Award of 28 September 2007

Chemtura Corporation v. Government of Canada (NAFTA Chapter 11 Arbitration, member of Tribunal, pending)

Trans Global Petroleum Inc v. Hashemite Kingdom of Jordan (ICSID Arbitration, member of Tribunal, settled)

Liman Caspian Oil BV & NCL Dutch Investment BV v. Republic of Kazakhstan (ICSID Case No ARB/07/14, member of Tribunal, pending)

Railroad Development Corporation v. Republic of Guatemala (ICSID Case No ARB/07/23, member of Tribunal, pending)

Expert witness before national courts:

1. *Trade Practices Commission v. Australia Meat Holdings Pty Ltd* (1988) 83 Australian Law Reports 299 (Federal Court of Australia, Wilcox J)

2. *Schexnider v. McDermott International Inc* (DC, La (WD), 1988, Civil Action No 81-2358) (evidence on oath for plaintiff).

3. *Simoneaux v. McDermott International Inc* (SC, La, 1989) (evidence on deposition for plaintiff).

4. *Propend Pty Ltd v. Singh & Commissioner for the Australian Federal Police* (UK High Court, Laws J, 1996, CA, 1997, leave to appeal to the House of Lords refused) (evidence on oath for defendant, evidence upheld on appeal), 111 ILR 611.

5. Adviser to and Expert Witness on behalf of the Department of Justice, Government of Canada, *Reference re Secession of Quebec* (Canada, Supreme Court), 115 ILR 536.

6. *Citoma Trading Ltd v. Federative Republic of Brazil*, Court of Appeal, 1999, on appeal from *JH Rayner (Mincing Lane) Ltd & ors v. Cafenorte SA Importadora & ors* [1999] 1 All ER (Comm) 120.

7. Expert Witness on behalf of the Department of Justice, Government of Canada, *Democracy Watch and another v. Attorney General of Canada* (Ontario Superior Court of Justice, Court file 01-CV-211576).

8. Expert Witness on behalf of the Department of Justice, Government of Canada, *Council of Canadians and another v. Attorney-General of Canada* (Ontario Superior Court of Justice, Court file Court File No. 01-CV-208141), reprinted in (2005) 2(5) *Transnational Dispute Management*.

9 Expert witness on behalf of Talisman Energy Inc , *Presbyterian Church of Sudan & others v Talisman Energy, Inc & Republic of Sudan*, 244 F Supp 289 (DNY, 19 March 2003), F3d (2nd Ct, 2 October 2009) and on certiorari to the Supreme Court (June 2010)

In addition, expert reports on international law in numerous arbitrations

Counsel before national courts

R v. Lyons and others, [2002] 4 All ER 1028 (HL) (junior counsel for the Appellants)

R (Al Jeddah) v Secretary of State for Defence, [2007] UKHL 58 (senior counsel for the interveners, Liberty & Justice)

The Republic of Croatia v The Republic of Serbia, [2009] EWHC 1559 (Ch) (senior counsel for Croatia)

Miscellaneous

Legal Adviser to the Crown Prince of Jordan, Israel Jordan Treaty of Peace, Araba Crossing Point, 26 October 1994 (1995) 34 ILM 43

Retained by Shipping Conference Services to advise foreign shipping companies on application of Australian legislation to conference trades (1988 93, 1996, 2000, 2004)

BOOKS

The Creation of States in International Law (Oxford, Clarendon Press, 1979) i-xxviii, 1-498

The Rights of Peoples (editor) (Clarendon Press, Oxford, 1988, paperback, 1992) i-x, 1-236

The Law of the Sea in the Asia Pacific Region (editor, with DR Rothwell) (Nijhoff, Dordrecht, 1995) ix + 282 pp. (coedited with Philip Alston) The Future of UN Human Rights Treaty Monitoring (Cambridge, Cambridge University Press, 2000) i-xxx, 1-530

The ILC's Articles on State Responsibility: Introduction, Text and Commentaries (Cambridge, Cambridge University Press, 2002) xxviii + 384pp ; also published in French as *Les articles de la C.D.I. sur la responsabilité de l'État. Introduction, texte et commentaires* (Pedone, Paris, 2003), xvi & 461 and in Spanish as *Los artículos de la Comisión de Derecho Internacional sobre la Responsibilidad Internacional des Estado. Introducción, texto y commentarios* (Dykinson, Madrid, 2004), 461

International Law as an Open System. Selected Essays (Cameron & May, London, 2002) pp. 1-607

Australian Courts of Law (4th edn with Brian Opeskin, Oxford University Press, Melbourne, 2004) xii, 1-308

Foreign Investment Disputes: Cases, Materials and Commentary (with R Doak Bishop and W Michael Reisman) (Kluwer Law International, The Hague, 2005) lv + 1653

Rights in One Country: Hong Kong and China (University of Hong Kong, 2005) (1-xviii, 1-42)

The Creation of States in International Law (2nd edn, Oxford University Press, 2006) i-lxii, 1-870

The Law of International Responsibility (edited with A Pellet & S Olleson) (Oxford, OUP, 2010) i-lxv, 1-1296

EDITORIAL

Editor, *Adelaide Law Review*, Vol 3 No 3 (1969); Vol 5 Nos 2-4 (1974-6), Vol 6 Nos 1-3 (1977-8).

Joint Editor, "The Aborigine in Comparative Law", (1987) 2 *Law and Anthropology* (Austria) i-viii, 1-457.

Consultant Editor, Japanese Study Group (Y Onuma & others) on Grotius, *De Iure Belli ac Pacis*: *published as Y Onuma, A Normative Approach to War. Peace, War, and Justice in Hugo Grotius* (Oxford, Clarendon Press, 1993) xvii + 421.

Editor, International Law Association, *Report of the 64th Biennial Conference*, Queensland, 19-25 August 1990 (ILA, London, 1991)

Co-Editor, International Law Association, *Report of the 65th Biennial Conference*, Cairo, 21-26 April 1992 (ILA, Cairo, 1993)

Co-Editor, International Law Association, *Report of the 67th Biennial Conference*, Helsinki, 11-18 August 1996 (ILA, London, 1997)

Editor, *British Yearbook of International Law* (1994-99), Senior Editor (2000-)

Co-Editor, Cambridge Studies in International and Comparative Law (1996-)

Member of Editorial Panel, *World Trade Review* (2002-2005)

Member of Board of Editors, *American Journal of International Law* (2004-)

Co-editor, *ICSID Reports* (2002-)

OFFICIAL REPORTS

1. ALRC 24, *Foreign State Immunity* (AGPS, Canberra, 1984) i-xxiv, 1-168 (Commissioner in Charge). The Summary of Recommendations and Draft Legislation appended to the Report is reproduced in 23 ILM 1398. Legislation to implement the Report was enacted: Foreign States Immunities Act 1985 (Cth), 25 ILM 715.

2. ALRC 31, *The Recognition of Aboriginal Customary Laws* (AGPS, Canberra, 1986) Summary volume: i-xvii, 1-104; Vol 1: i-xxxix, 1-507; Vol 2: i-xvi, 1-415 (Commissioner in Charge).

3. ALRC 33, *Civil Admiralty Jurisdiction* (AGPS, Canberra, 1986) (Commissioner in Charge) i-xxi, 1-393. Legislation to implement the Report was enacted: Admiralty Act 1988 (Cth); Admiralty Rules 1988 (Cth).

4. Constitutional Commission, Australian Judicial System Advisory Committee, *Report* (AGPS, Canberra, 1987) (Member).

5. ALRC 48, *Criminal Admiralty Jurisdiction and Prize* (AGPS, Canberra, 1990) (Commissioner in Charge) i-xvi, 1-210.

GOVERNMENTAL NOMINATIONS AND CONFERENCES

1. Member of the Australian delegation to UNESCO General Conference, Sofia, October

1985. See UNESCO General Conference, Report of the Australian Delegation (AGPS, Canberra, 1986) 36-43.

2. Leader of the Australian Observer Delegation, Asian African Legal Consultative Committee, Bangkok, January 1987.

3. Australian nominee as a conciliator included in the list maintained by the Secretary-General for the purpose of constituting the conciliation commission provided for by the Annex to the Vienna Convention on the Law of Treaties 1969.

4. Adviser, Australian delegation to the United Nations General Assembly, Sixth Committee, 43rd Session, 1988; 44th Session, 1989; 45th Session, 1990; 46th Session, 1991.

5. Member, International Law Commission (1992-2001).

- Responsible for drafting the Working Group Report (*ILC Yearbook* 1992 vol II pt 2, 58-80) and Draft Statute (1993) on an International Criminal Court. For the text of the latter see (1994) 33 ILM 253. Chair of the Working Group (1994): see Working Group on a Draft Statute for an International Criminal Court, *Report of the Working Group* (A/CN.4/L.491/Rev.2 & Add.1-2, 14, 18, 19 July 1994): see ILC Ybk 1994/II (2) 18-74, text also in A. Watts, *The International Law Commission 1949-1998. Volume II. The Treaties* (Oxford, Oxford University Press, 2000) 1454-1552.

- Responsible for drafting Report on Working Methods of the Commission, published in *ILC Report 1996*, Annex 1.

- Special Rapporteur on State Responsibility (1997-2001).

  First Report on State Responsibility (A/CN.4/490 & Adds. 1-5, 1998), *ILC Ybk* 1998 vol II (pt 1) pp 1-80

  Second Report on State Responsibility (A/CN.4/498 & Adds. 1-4, 1999), *ILC Ybk* 1999 vol II (pt 1) pp 3-100

  Third Report on State Responsibility (A/CN.4/507 & Adds. 1-4, 2000), *ILC Ybk* 2000 vol II (pt 1) pp 3-111

  Fourth Report on State Responsibility (A/CN.4/517 & Add. 1, 2001)

  The Articles on Responsibility of States for Internationally Wrongful Acts were adopted by the ILC on 14 August 2001, and annexed to GA Resolution 56/83, 12 December 2001.

MAJOR LECTURES

Hersch Lauterpacht Memorial Lectures, Cambridge, January 1988.

Ebsworth & Ebsworth Maritime Law Lecture, Sydney, August 1996.

Bertha Wilson Distinguished Visiting Professor, Dalhousie Law School, January 1997.

Hague Academy of International Law, "Multilateral Legal Rights and Obligations" (August 1997)

Synder Memorial Lecture, University of Indiana, April 2000

First James Crawford Biennial Lecture in International Law, University of Adelaide, September 2003

Hochelaga Lectures, Faculty of Law, University of Hong Kong, 2004

22nd Freshfield Lecture on International Arbitration, London, December 2007

First Michael Kirby Lecture, Canberra, June 2008

Josephine Onoh Memorial Lecture, University of Hull Law School, 26 November 2008